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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 JAMES DEAN WILKS,) CASE NO. C07-2084-MJP-MAT
09 Plaintiff,)
10 v.) ORDER RE-NOTING DEFENDANTS'
11 SGT. STOWERS, et al.,) MOTION FOR PARTIAL SUMMARY
12 Defendants.) JUDGMENT
13 _____)

14 This is a civil rights action brought under 42 U.S.C. § 1983. On August 15, 2008,
15 defendants filed a motion for partial summary judgment which was noted on the Court's calendar
16 for consideration on September 19, 2008. Plaintiff did not file any response to that motion. On
17 October 21, 2008, defendants filed a motion seeking relief from the deadline for submission of a
18 joint pretrial statement and a declaration in support thereof. Defendants' most recent motion
19 papers indicate that plaintiff may not have received defendants' motion for partial summary
20 judgment thus depriving plaintiff of the opportunity to respond.

21 Accordingly, the Court does hereby ORDER as follows:

22 (1) Plaintiff may file and serve a response to defendants' motion for partial summary

judgment not later than **December 1, 2008**.¹

Plaintiff is advised, pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998), and Federal Rule of Civil Procedure 56, that he has a right to file counter-affidavits or other responsive evidentiary materials in opposition to defendant's motion for partial summary judgment and that his failure to file such materials may result in the entry of summary judgment against him. If the motion for partial summary judgment is granted, plaintiff is advised that his case will be over as to the claims addressed by that motion.

(2) Defendants' motion for partial summary judgment (Dkt. No. 16) is RE-NOTED on the Court's calendar for consideration on **December 5, 2008**.

(3) The Clerk is directed to send copies of this Order to plaintiff, to counsel for defendants, and to the Honorable Marsha J. Pechman.

DATED this 24th day of October, 2008.


Mary Alice Theiler
United States Magistrate Judge

¹ The record indicates that counsel for defendants recently sent another copy of the motion for partial summary judgment to plaintiff along with a copy of the complaint. (*See* Dkt. No. 21, Declaration of Linda M. Gallagher, Attachment C.) Plaintiff should therefore have the materials necessary to file a response should he elect to do so.